

WHITNEY'S ARGUMENT

In Sustaining the Income Tax

BEFORE THE SUPREME COURT

Mr. Edmunds Fought Against the Tax, With a Plea for Equality in Taxation.

WASHINGTON, March 11.—Assistant Attorney General Whitney resumed his argument in sustaining the income tax law before the supreme court today. Attorney General Whitney, ex-Senator Edmunds and many other distinguished counsel in the case occupied seats at the desk reserved for attorneys. The court room was crowded. Mr. McMillin, Mr. Springer and several other members of congress who had taken part in the enactment of the income tax law were among those present. Mr. Whitney addressed himself to the question of uniformity in taxation, it answers to the charge that the income tax violated the principle of uniformity. He contended that the limit of \$4000 fixed by the law was not classification. If an subsequent congress had sought to amend the law by including those not previously exempted by the \$4000, the amendment would not do so, but it would apply to a distinct class. Mr. Whitney referred prior decisions, insurance and other cases showing that the interpretation of this court on classification would not apply to the income tax.

Concerning the exemptions allowed to contain corporations, the assistant attorney general said it was most surprising that this was set up as a ground for invalidating the tax. He read from numerous federal tax laws showing repeated exemptions in the case of art societies and other corporations.

The court had sustained the tax of manufacturing corporations in the District of Columbia, building and loan associations and savings companies were frequently exempted by law and given special consideration. During the war the lawmakers even exempted the mutual insurance company from the operations of the general tax law.

Mr. Whitney said that the supreme court had already overruled the contention that the tax on land and rentals as the income tax invalid. The state taxes, he argued, applied to land and not against the individuals, but the income tax was not against the land but merely against the total income of the individuals. As this income came in part from the land, it was merely an incident.

The income tax is in no sense a land tax. It is not on the gross income from land and other sources but on net income. Mr. Whitney took up the claim that the federal government cannot tax municipal and local securities held by individuals, as for instance bonds issued by New York City. He said it had been decided in the case of Bonaparte against the state of Maryland that a state could tax bonds of the city or state of New York. If the state could exceed this power, why could not the federal government do so?

Mr. Whitney concluded at 1:30, and was followed by Mr. Edmunds, counsel against the tax. He spoke quietly and in a conversational tone much as he did when a leading figure of the senate. He stated the contention of his rights and against the violation of his rights and property. If there was a constitutional provision protecting the individual, it was the rock upon which the contention against this tax was based. Mr. Edmunds read from the protection of the protection of private rights.

These provisions, he said, were strict and yet it seemed necessary in these days with such legislation before us to recall these constitutional but working against an invasion of private rights. It is a fact that the income tax did not fail to pass the court not only to pursue the same, but to go back and rule upon the entire subject so vital to sustaining private rights.

The worst tyranny of history was that which came in the guise of a relief. The first spot of the action of congress in endeavoring to take away from the courts the right to appeal for protection as was the case in the income tax law. Had not the time had come when there should no longer an appeal to the courts from the acts of congress?

It was beyond the function of congress to pass an act that would strip the courts of their rights, and this was just as true as to the rights of the citizen as to those of the courts. Speaking of the income tax law, he referred to the provision that the taxpayer was required to make his returns to the collector. He said the deputy was not recognized as a legitimate officer under the constitution. He did not mean to say that, but to say that it is in passing as one of the points of vice which blazoned in the parlor of the last congress. He criticized many other points of the law providing for the collection of the taxes, pointed out that it left no room for resort or appeal to the courts, but left to the revenue officers the adjustment; who, he said, were not only the final judges, but the inquisitors as well.

"It is true," he said, "that these returns are to be regarded as confidential, but how are we to know that they are not treated as confidential? We may be treated as confidential, they may be treated as if it is not possible they may be handled, for instance, like the confidence of the United States Senate?"

Mr. Edmunds then reviewed the case, heretofore decided, which had been referred to in the previous argument, and discussed the points involved at length. He was referring to the Hillton case, involving the tax on carriages, when Chief Justice Fuller called his attention to the fact that Hillton had called his attention to the number of carriages, 125, he remembered.

"Upon that point, yes," Mr. Edmunds said, "but no possesses them as many persons possess virtue and glory. He asked the court to overrule its former decision on the income tax, as given in the Springer case.

He argued that past congress had overstepped the limits of the constitution in imposing this tax, because, he said, it was short of money. He argued that under the law 95 per cent of the tax would be paid by 2 per cent of the taxable voters.

"It becomes," said Mr. Edmunds, "an indirect subject of speculation as to how long the government can last under a system which allows those who pay nothing to tax their fellow citizens. One evil step will lead to another, as one vice follows another, until by and by we will have revolution, then another, a tyrant to rule us."

Justice Harlan asked Mr. Edmunds if he had formulated a definition of the difference between a direct and indirect tax, and he replied he had. He then upon proceeded to give it, saying a direct tax was "tax on any kind of property and upon persons not in respect of prop-

VALLEY RAILROAD BILL

Passed by the Assembly, Sixty to Nine.

FIGHT EXPECTED IN THE SENATE

Classification of Counties—Fifty Seven Classes, Each County Forming a Class.

SACRAMENTO, March 11.—The assembly took up the bill granting the San Joaquin railroad 60 acres of San Francisco water front for terminal purposes.

Reid of Trinity offered a substitute for Powers' amendment adopted Friday. The substitute makes the proposed grant of water front more specific, describing the fifty acres adjoining Chico basin and specifying that the railroad company must have 200 miles of road completed in three years or forfeit the grant.

There was a debate of over an hour before a vote was taken, and the bill passed by a vote of sixty to nine. Powers and Dinkeling of San Francisco, Phelps and Smith of Madera, and John C. Bishop of Humboldt argued for the bill and for giving the proposed competing road over facility, while Bruns of Sacramento, Bull of Los Angeles, McElroy of Orange and Reid of Trinity opposed the bill as presented with the former amendment.

A Murderer Convicted.

SAN BERNARDINO, March 11.—Amelia Garcia was today convicted of murder in the first degree by a jury for killing a Frenchman named Colton about three months ago.

POINTS AGREED UPON

IN THE CHINESE PEACE CONFERENCE.

Another Battle in Which the Chinese Lose 400 Men and the Japs 10.

LOS ANGELES, March 11.—A dispatch from Pekin says the Chinese government through the United States ministers, Moqua, Douby and Dan, have already agreed upon the points in the peace conference regarding the independence of Corea, the cession of territory and money indemnity, the amount to be agreed on by the envoys. It is not known when the agreement will be signed at an early date.

At the evening session bills were passed compelling all corporations to pay and remit annually a prohibitory assessment of wages for the purpose of vindicating the provisions of this act; repealing the act of 1873 relating to street railroad fares and providing that one fare shall not be charged for a longer distance than three miles; authorizing the removal of the home for adult blind from Onslow to property at Santa Clara and sale of the Oakland property.

Bills paying the claim of Jerome Dancy for \$1052; also claims of H. P. Dyer and others for \$856, vote in the case of people against the American Sugar Refinery Company, were adopted passage.

SACRAMENTO, March 11.—Upon reading this morning the senate at once took up the county government bill.

On motion of Withington of San Diego the judiciary committee's statement of population of the various counties based on enumeration from the gubernatorial vote was stricken out and arbitrary figures of population inserted as given by each senator. This was done to meet Earl's objection urged Saturday evening to the mode of classification by population.

Under the adopted classification there are fifty-seven classes, each county forming a class. San Francisco first, Los Angeles second, Alameda third, Santa Clara fourth, Sacramento fifth, Solano sixth, San Joaquin seventh, San Diego eighth, Fresno ninth, San Bernardino tenth and so on to Alpine, fifth-seventh.

Hart of Sacramento caused a debate by a proposed amendment, which was lost, to have supervisors in counties of the fifth-class (Kern) name a paper for official advertising.

Another amendment by Hart carried, giving counties one extra deputy sheriff and two extra constable clerks for each additional extra judge.

Another amendment was made following in the lead of the amendment by Biggs of San Francisco, which result in giving tax collectors or assessors no commissions for personal property collections, but to make salaries payment in full. The bill went to the printer and was made a special order for Wednesday.

It was agreed to reconsider the vote by which Matthews' bill was passed permitting Los Angeles county to issue bonds to build the Salt Lake road. The bill was made a special order for tomorrow.

A bill was passed appropriating \$3000 deficiency for putting in heating and ventilating apparatus for the San Jose normal school.

The re-enfranchisement committee bill, giving the state board of examiners power to fix compensation and to reduce the number of employees paid out of the state appropriations, including those of all the state institutions, caused a lively debate.

Earl of Alameda and Hart of Sacramento opposed the bill. Biggs of San Francisco, Withington of San Diego, Leland of San Joaquin, Or of Ventura and Seymour of San Bernardino favored the idea as a desirable measure of economy. Hart said the board of examiners had no more business to run the state university than a blacksmith has to run a jewelry store. The bill passed by a vote of 22 to 14. Hart gave notice of a reconsideration.

At the evening session bills were introduced prescribing taxidermy for plumes or feathers, amounting to \$500 to O. F. Walsh for imports, \$1170.41 for exports, the amount on lots 17 to 23, block 13, Fowler. H. C. Tupper is attorney for the plaintiff.

The Farmers' Bank of Fresno vs. William Adams et al.; foreclosure, the amount being \$342.24, secured by mortgage on lots 11 to 16, block 9, Fowler.

E. A. Otis vs. E. H. Tucker; mandate. James A. Burns is attorney for the plaintiff.

The Markets.

SAN FRANCISCO, March 11.—Wheat Strong; December, 90¢; May, 92¢. Barley—Quiet; May, 72¢.

Corn—\$1.25.

Bran—\$14 her ton.

New Suits.

The following new cases were yesterday filed in the county clerk's office:

The Farmers' Bank of Fresno vs. George C. Lillihou et al.; foreclosure, the amount, \$1170.41, secured by mortgage on lots 17 to 23, block 13, Fowler. H. C. Tupper is attorney for the plaintiff.

The Farmers' Bank of Fresno vs. William Adams et al.; foreclosure, the amount being \$342.24, secured by mortgage on lots 11 to 16, block 9, Fowler.

E. A. Otis vs. E. H. Tucker; mandate.

James A. Burns is attorney for the plaintiff.

Slapped Her Face.

Monts Jones, colored, was yesterday arrested on complaint of Sallie Winters, also colored, on a charge of slapping her face. The story back of the trouble does not promise to be very sensational, but the report is that the lady in the case was out of humor because Mr. Jones had just passed her thirty-fourth year. She was born in Stockton, but had lived in Fresno, according to the report. The damage to her face for the funeral, and the hour it will take place have not yet been announced.

Mrs. Bell's Sudden Death.

Mrs. Emma A. Bell, wife of T. A. Bell of this city, died suddenly about 4 o'clock yesterday afternoon. She had been ill for a few days, but her condition was not considered dangerous till a few hours before her death. She had just passed her thirty-fourth year. She was born in Stockton, but had lived in Fresno, according to the report. The damage to her face for the funeral, and the hour it will take place have not yet been announced.

GO TO THE

GILT EDGE LUNCH COUNTER

BEST 15 CENT MEAL IN TOWN.

GEORGE SCHORLING, Prop.

JUST RECEIVED!

NEW

AND

STYLISH

GOODS

In the

FURNITURE

LIVE AT

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